

Message Text

SECRET

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ACTION SS-25

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O 172113Z JUN 77 ZFF4
FM AMEMBASSY SAN JOSE
TO SECSTATE WASHDC NIACT IMMEDIATE 7822

S E C R E T SECTION 1 OF 2 SAN JOSE 2817

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EXDIS

E.O. 11652: GDS
TAGS: PGOV, CS
SUBJECT: EXTRADITION

REF: STATE 140122

1. FROM OUR OWN ONGOING CONSULTATIONS WITH SAME LAWYER WHO CONSULTED WITH MR. FISKE, EMBASSY WOULD SET ODDS AT EVENTUAL SUCCESS OF ANOTHER EXTRADITION REQUEST SOMEWHAT MORE FAVORABLY THAN THOSE EXPRESSED IN JUSTICE DEPARTMENT MEMORANDUM. EMBASSY AND LOCAL ATTORNEY HAVE ALWAYS COUNTED ON THE JANUARY 1976 NINE-COUNT INDICTMENT AS PRINCIPAL VEHICLE FOR A NEW EXTRADITION ATTEMPT, WITH POSSIBLY THE BUHL CASE THROWN IN AS WELL. (IN FACT, BULK OF WORK DONE BY LOCAL LAWYER ON POSSIBLE EXTRADITION DEALT WITH JANUARY 1976 INDICTMENT.) EMBASSY, THEREFORE, SEES AS A SIGNIFICANT NEW ELEMENT IN JUSTICE DEPARTMENT MEMORANDUM, THE DETERMINATION THAT JANUARY 1976 INDICTMENT IS "A MASSIVE FRAUD CASE INVOLVING NUMEROUS WITNESSES...(WHICH) BECAUSE OF ITS SIZE AND DIFFICULTY...CANNOT BE CONSIDERED AN APPROPRIATE VEHICLE FOR AN EXTRADITION TRIAL." LOCAL COUNSEL HAS HELD THAT A CAREFULLY PREPARED ATTEMPT BASED ON THAT INDICTMENT, WHICH WOULD INVOLVE ELIMINATING

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SOME COUNTS AND PROVIDING SOLID EVIDENCE TO SUPPORT THE OTHERS, COULD SUCCEED IN COSTA RICA.

2. IN OUR VIEW MAKING THE BUHL CASE, WITH WHICH WE HAVE ALREADY FAILED TO ACHIEVE EXTRADITION IN THE COURTS IN ANOTHER COUNTRY (BAHAMAS), OUR EXCLUSIVE EXTRADITION VEHICLE WOULD SEVERELY HAMPER OUR CHANCES OF SUCCESS

HERE. NOT TO GO WITH THE LATEST INDICTMENT WOULD BE DEPICTED BY VESCO AS PROOF THAT U.S. DOES NOT HAVE A CASE. A RE-RUN OF THE BUHL CASE WOULD FURTHER MAKE THAT POINT. TOGETHER, THEY WOULD BE USED AS ADDITIONAL "PROOF" OF OUR POLITICAL MOTIVATION IN THE EXERCISE.

3. NEVERTHELESS, WE DO AGREE THAT WHETHER THE BUHL CASE OR THE 1976 NINE-COUNT \$100 MILLION SECURITIES FRAUD CASE IS USED AS BASIS FOR REQUEST, PROSPECTS OF SUCCESS WOULD BE UNCERTAIN, COSTS COULD RUN HIGH, AND TRIAL, APPEAL, ETC., COULD DRAG ON AS LONG AS A YEAR. IF USG CANNOT BRING ITSELF TO INITIATE AN EXTRADITION REQUEST ON THOSE TERMS AND UNDER THOSE CONDITIONS, THEN PERHAPS WE SHOULD BE THINKING OF SETTING ASIDE EXTRADITION FROM COSTA RICA AS

A POSSIBLE COURSE OF ACTION. IN EMBASSY'S VIEW, HOWEVER, A DECISION NOT TO EXTRADITE MUNHBE TANTAMOUNT TO A DECISION TO ACCEPT THE FOREIGN POLICY CONSEQUENCES OF VESCO'S CONTINUED PRESENCE IN COSTA RICA AND TO CEASE EFFORTS TO BRING VESCO BEFORE THE BAR OF JUSTICE IN THE U.S. THE COST OF THAT KIND OF A DECISION MAY NOT BE EXPRESSABLE IN DOLLARS BUT IT WOULD BE REAL AND IT WOULD BE HEAVY.

4. WE SHOULD NOT DECEIVE OURSELVES INTO THINKING THAT VESCO'S COORDINATED DEPORTATION FROM COSTA RICA TO THE U.S. IS A MORE VIABLE OPTION THAN EXTRADITION. IT IS NOT. IN FACT, OUR VIEW IS THAT CHANCES OF PERSUADING GOCR TO DEPORT VESCO IN A WAY AND AT A TIME THAT WOULD PERMIT THE
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USG TO TAKE HIM INTO CUSTODY AS A FUGITIVE ARE PRACTICALLY NIL. OUR BEST ASSESSMENT IS THAT PRESIDENT ODUBER CAN FREE HIMSELF FROM THE POLITICAL LIABILITY OF VESCO'S PRESENCE ONLY ON TERMS THAT ARE AGREEABLE TO VESCO, I.E., HE CAN ASK HIM OR TELL HIM TO LEAVE, BUT HE CANNOT EXPEL VESCO FROM THE COUNTRY AGAINST HIS WILL WITHOUT RISKING ADDITIONAL, DAMAGING REVELATIONS OR ASSERTIONS OF PAST PERSONAL COMPLICITY WITH VESCO. ACCORDINGLY WE CANNOT EXPECT THAT ODUBER WILL ORDER VESCO'S ARREST AND DEPORTATION AS AN UNDESIRABLE ALIEN. ODUBER HAS HIMSELF STATED THAT HE HAS NO INTENTION OF THROWING VESCO OUT OF THE COUNTRY, AND WE BELIEVE HE MEANS IT.

5 ADDITIONALLY, EVEN IF ODUBER WERE TO SUCCUMB TO U.S. PRESSURE TO ARREST AND DEPORT VESCO (A HIGHLY DOUBTFUL PROPOSITION), THIS PROBABLY COULD ONLY BE ACCOMPLISHED LOCALLY WITH SOME OVERT U.S. PARTICIPATION SUCH AS A USG-PROVIDED AIRCRAFT TO RETURN VESCO TO THE U.S. IT COULD NOT BE HANDLED DISCREETLY. IN EMBASSY VIEW, THIS

TYPE OF FORCEFUL ARREST AND QUICK SPIRITING AWAY IN COLLUSION WITH LOCAL AUTHORITIES WOULD CONSIDERABLY ENHANCE VESCO'S ASSERTION OF POLITICAL PERSECUTION. WE DO NOT KNOW WHAT EFFECT THIS WOULD HAVE ON HIS LEGAL DEFENSE, IN U.S. BUT WE DO BELIEVE THAT WERE THIS TO HAPPEN, THE U.S. WOULD BE VIEWED AS HAVING INTERVENED IN THE AFFAIRS OF THIS COUNTRY.

6. JUSTICE DEPARTMENT MEMORANDUM MAY HAVE BEEN DRAFTED WITH THOUGHT THAT VESCO IS PLANNING TO RETURN TO U.S. ANYWAY, AS PRESIDENT ODUBER IMPLIED SEVERAL DAYS AGO. EMBASSY WOULD BE WILLING TO ASK VESCO WHAT HIS TRAVEL INTENTIONS ARE IF INSTRUCTED TO DO SO. OTHERWISE WE HAVE TO ASSUME THAT VESCO WOULD RETURN VOLUNTARILY TO THE U.S. ONLY IF HE RENEWED PLEA-BARGAINING EFFORTS AND THEY PROSPERED. IN THIS CONNECTION IT WILL BE RECALLED THAT IN RECENT PAST VESCO ASSOCIATES HAVE TAKEN SOUNDINGS TO
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DETERMINE WHETHER USG WOULD BE WILLING TO DROP CHARGES AGAINST HIM IN EXCHANGE FOR HIS COOPERATION IN OTHER AREAS OF LAW-ENFORCEMENT OR WOULD REDUCE CHARGES IN EXCHANGE FOR A PLEA OF UNKNOWING VIOLATION OF SEC REGULATIONS.

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S E C R E T SECTION 2 OF 2 SAN JOSE 2817

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7. THE JUSTICE DEPARTMENT MEMORANDUM APPEARS TO ADDRESS

THE SITUATION THAT EXISTED PRIOR TO LAST WEEK'S ANNOUNCEMENT BY ODUBER THAT VESCO WILL LEAVE THE COUNTRY. BEFORE THAT STATEMENT WAS MADE WE HAD TO ASSUME THAT VESCO MIGHT SOON BECOME A CITIZEN AND THAT A FINAL DECISION ON EXTRADITION HAD TO BE MADE BEFORE THE DATE OF HIS ELIGIBILITY TO FILE FOR CITIZENSHIP. EMBASSY IS NOW PREPARED TO BELIEVE THAT QUESTION OF AN EXTRADITION EFFORT CAN BE CONSIDERED WITHOUT REGARD TO THE CITIZENSHIP ISSUE. WHILE VESCO THEORETICALLY HAS FULFILLED RESIDENCE REQUIREMENTS TO BECOME A CITIZEN, POLITICAL CLIMATE HERE WOULD MAKE IT ALL BUT IMPOSSIBLE FOR APPROPRIATE GOVERNMENT ORGANS TO GIVE FAVORABLE CONSIDERATION TO ANY VESCO PETITION TO BE DECLARED A CITIZEN BEFORE THE FEBRUARY ELECTION. IN EMBASSY'S VIEW, REMOVAL OF TIME ELEMENT OF CITIZENSHIP ISSUE, AND ANNOUNCEMENT BY PRESIDENT ODUBER THAT VESCO WILL LEAVE THE COUNTRY, CREATES A SOMEWHAT DIFFERENT SITUATION THAN THAT WHICH WE HAVE BEEN FACING. IN OUR ANALYSIS, VESCO HAS THREE OPTIONS:

A) APPARENTLY HAVING ACQUIESCED IN PRESIDENT ODUBER'S REQUEST THAT HE LEAVE THE COUNTRY, AND ODUBER HAVING DAMPENED SOMEWHAT THE POLITICAL SCANDAL ARISING FROM THE SECRET

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FIGUERES REVELATIONS BY ANNOUNCING VESCO'S DEPARTURE, VESCO COULD SIMPLY REMAIN IN COSTA RICA. THERE ARE JUDICIAL IMPEDIMENTS TO THIS DEPARTURE, AND IF THEY ARE NOT LIFTED HE IS NOT LEGALLY FREE TO LEAVE. IF THEY ARE LIFTED, AND HE CHOSE TO REMAIN, IT WOULD BE NO PROBLEM TO ARRANGE FOR OTHER LEGAL CLAIMS AGAINST HIM TO BE FILED, THUS CAUSING ISSUANCE OF NEW JUDICIAL BAAQ TO HIS DEPARTURE. FOR ODUBER AND THE PLN THERE WOULD BE A POLITICAL PRICE TO PAY FOR PROLONGED CONTINUATION OF VESCO'S PRESENCE, BUT THE PRICE COULD BE MINIMIZED BY POINTING TO COSTA RICA'S INDEPENDENT JUDICIARY AND LEGAL TRADITION AS EFFECTIVELY PROHIBITING FULFILLMENT OF ODUBER'S STATED WISHES.

B) THE LEGAL IMPEDIMENTS TO VESCO'S DEPARTURE COULD BE DISSOLVED, AND HE MIGHT THEN DEPART COSTA RICA FOR ANOTHER COUNTRY OF TEMPORARY REFUGE, RETURNING TO COSTA RICA FOLLOWING THE ELECTIONS AND PRIOR TO THE INAUGURATION OF THE NEW GOVERNMENT. THIS WOULD HELP TO REMOVE THE VESCO ISSUE AS A MAIN THEME IN THE POLITICAL CAMPAIGN BUT COULD GIVE HIM A SHOT AT BECOMING A COSTA RICAN CITIZEN BEFORE THE GOVERNMENT ELECTED IN FEBRUARY TAKES OFFICE NEXT MAY 1.

C) WITH LEGAL IMPEDIMENTS TO HIS DEPARTURE DISSOLVED OR LIFTED, VESCO COULD DEPART COSTA RICA FOR ANOTHER PER-

MANENT OR SEMI-PERMANENT COUNTRY OF REFUGE WITH NO INTENTION OF RETURNING TO COSTA RICA.

D) ONCE JUDICIAL BARS TO HIS DEPARTURE ARE REMOVED, VESCO COULD RETURN TO THE U.S. EITHER DIRECTLY FROM COSTA RICA OR AFTER A STOP IN ANOTHER COUNTRY OF REFUGE. PRESUMABLY HE WOULD DO THIS ONLY IF HE SUCCEEDED IN PLEA-BARGAINING EFFORTS.

8. IT IS EMBASSY'S BEST ASSESSMENT THAT VESCO CASE IS
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LIKELY TO UNFOLD ALONG EITHER OPTION (A) OR OPTION (B) AND EMBASSY'S RECOMMENDATION IS THAT USG PREPARE ACCORDINGLY. TO PREPARE TO DO THIS DOES NOT REQUIRE A HARD AND FAST DECISION NOW TO SEEK VESCO'S EXTRADITION. IT DOES REQUIRE PREPARATION OF BEST POSSIBLE EXTRADITION REQUEST TO BE FILED WHEN AND IF CIRCUMSTANCES INDICATE THAT THE EXTRADITION ROUTE, HOWEVER DIFFICULT AND COSTLY IT MIGHT BE, PROVIDES THE ONLY MEANS OF ESTABLISHING USG SINCERITY IN THIS CASE AND THE ONLY POSSIBILITY OF BRINGING VESCO INTO USG CUSTODY.

9. ONCE A DECISION HAS BEEN TAKEN TO PREPARE AN EXTRADITION REQUEST, WE SHOULD CONSIDER ADVISABILITY OF MAKING KNOWN TO GOCR THAT SUCH A REQUEST IS UNDER PREPARATION. THIS COULD BE IN THE FORM OF PRIVATE MESSAGE TO PRESIDENT ODUBER AND/OR FOREIGN MINISTER GONZALO FACIO, ALTHOUGH POSSIBILITY OF A PUBLIC STATEMENT IN WASHINGTON SHOULD NOT BE RULED OUT. EITHER WAY, THE GIST WOULD BE THAT ALTHOUGH WE ARE AWARE OF PRESIDENT ODUBER'S STATEMENT THAT VESCO WILL LEAVE THE COUNTRY, WE ARE OBLIGATED TO THE U.S. PUBLIC AND TO U.S. JUSTICE TO PROCEED IN PREPARATION OF THE REQUEST. ONCE IT IS READY, AND ASSUMING THAT VESCO IS STILL IN COSTA RICA, WE ARE FULLY PREPARED TO PRESENT IT TO THE COSTA RICAN COURTS.

10. THE PURPOSE OF SUCH A MOVE WOULD BE TO STIMULATE HIGHEST-LEVEL GOCR INTEREST IN HELPING TO LIFT JUDICIAL BARS TO VESCO'S DEPARTURE AND IN ARRANGING WITH HIM TO DEPART SOON. OUR REASONING IS THAT ODUBSK DOES NOT WANT AN EXTRADITION TRIAL HERE JUST SEVERAL MONTHS BEFORE THE ELECTIONS, AND THAT THE PROSPECTS OF HAVING A TRIAL WOULD LEAD HIM TO HELP GET VESCO OUT OF THE COUNTRY. IF THIS DOES NOT HAPPEN, THEN WE WOULD HAVE FORCED THE HAND OF BOTH VESCO AND ODUBER, I.E., IT WOULD BE CLEAR THAT VESCO INTENDS TO REMAIN IN COUNTRY, AND WE WOULD HAVE NO CHOICE ANYWAY OF GOING DOWN THE SOMEWHAT UNCERTAIN BUT STILL THE
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ONLY AVAILABLE PATH, I.E., TO FILE ANOTHER REQUEST FOR EXTRADITION.

11. THIS TELEGRAM DOES NOT ADDRESS JUSTICE DEPARTMENT ASSERTIONS OF POSSIBILITY THAT VESCO DEFENSE AGAINST AN EXTRADITION REQUEST COULD INVOLVE CALLING OF HIGH USG OFFICIALS AS WITNESSES. THIS POSSIBILITY HAS NOT SURFACED IN ANY OF OUR DISCUSSION WITH LAWYER HERE, AND WE HAVE NOT BEEN ABLE TO CONTACT HIM TODAIC TO OBTAIN HIS OPINION. WE HAVE ASSUMED ALL ALONG THAT VESCO'S FIRST DEFENSE WOULD BE THE POLITICAL PERSECUTION ARGUMENT AND IN THAT CONNECTION HE WOULD RAISE EVERY POINT THAT MIGHT POSSIBLY BE CONSTRUED IN HIS FAVOR. HOWEVER WE DO NOT NOW KNOW WHETHER THERE WOULD BE ANY BASIS FOR CALLING FOREIGN GOVERNMENT OFFICIALS TO THE WITNESS STAND.
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